IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8486 of 2005

For Approval and Signature:

HON'BLE MR.JUSTICE SHARAD D.DAVE

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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PRAVIN RANCHHODBHAI RANA - Petitioner(s)

Versus

STATE OF GUJARAT &3 - Respondent(s)

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Appearance :

MS KRISHNA U MISHRA for Petitioner No(s).: 1.

RULE SERVED for Respondent No(s).: 1,2.

Mr.P.D.Bhate, AGP for Respondent No(s).: 3.

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CORAM :HON'BLE MR.JUSTICE SHARAD D.DAVE

Date : 28/06/2005

ORAL JUDGMENT

1. By filing this petition, the petitioner detenu has challenged the detention order dated 22.3.2005 passed by the Police Commissioner, Vadodara City in exercise of the powers conferred upon him under sub-section (2) of Section 3 of the Gujarat Prevention Anti-social Activities Act, 1985 (“the Act” for short), as, the Detaining Authority found that the detenu is a “bootlegger” and is required to be detained under the preventive detention, so that, he may not continue with such type of illegal activities.
2. Along with the detention order, the detenu was also served with the grounds of detention of the same date. In the said grounds, there is a reference to five criminal cases which are filed under the provisions of the Bombay Prohibition Act. In the grounds of detention, the statements of certain witnesses have been recorded.
3. At the time of hearing of this petition, it is argued by the learned advocate for the petitioner that the petitioner has made representation on 08.04.2005 and till today, the detaining authority has not decided the same, and, therefore, continued detention of the petitioner is vitiated, and, therefore, impugned order of detention is required to be quashed and set aside. Learned advocate appearing for the petitioner has relied upon the decision of this Court (Coram : H.K.Rathod, J)delivered in Special Civil Application no.12634 of 2000 dated 19.06.2001.
4. On the other-hand, Mr.Bhate, learned AGP has tried to support the impugned detention order passed against the petitioner. Affidavit-in-reply is filed on behalf of respondent no.2 wherein in para 12 of the affidavit-in-reply, it is stated that the representation dated 08.04.2005 pertains to Home Department and the averments made by the petitioner that the representation has not been decided by the detaining authority have not been controverted.
5. Considering the facts and circumstances of the case and considering the judgment referred to above, in my view, it is clear that the representation of the petitioner has remained till date undecided, which adversely affect the legal right of the petitioner to make an effective representation to the concerned authority. Under the circumstances, I have no option but to quash and set aside the detention order on the ground that the representation of the petitioner detenu has not been disposed of till date.
6. In view of what is stated above, the petition is allowed. The order of detention dated 22.03.2005 is quashed and set aside. The detenu Pravin Ranchhodbhai Rana is ordered to be set at liberty forthwith if he is not required in connection with any other case. Rule is made absolute accordingly.

(SHARAD D DAVE, J)

srilatha